

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DEBBY BARRETT**, on February 5, 2003 at 8 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Debby Barrett, Chairman (R)
Rep. Dee Brown, Vice Chairman (R)
Rep. Larry Jent, Vice Chairman (D)
Rep. Norman Ballantyne (D)
Rep. Arlene Becker (D)
Rep. Sue Dickenson (D)
Rep. Carol Gibson (D)
Rep. Daniel S. Hurwitz (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)
Rep. Don Roberts (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)
Rep. Pat Wagman (R)
Rep. Jonathan Windy Boy (D)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Joan Reiman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing and Date Posted:	HB 305, 1/29/2003; HB 394, 1/29/2003; HR 2, 1/29/2003
Executive Action:	HR 2 DO PASS; HB 348 TABLED; HB 371 TABLED; HB 435 DO PASS AS AMENDED

HEARING ON HR 2

Sponsor: REP. GALVIN-HALCRO, HD 48, Great Falls

Opening Statement by Sponsor:

REP. GALVIN-HALCRO testified this bill is to recognize service of seagoing Marines and the USS Helena. It designates the month of November 2003 as Seagoing Marine Month. Montana is the only state of the 48 to have troops in World War II without an active duty battleship named after it. In 1941, the USS Helena was used to rescue 400 officers and crew at Guadalcanal.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 4.2}

Proponents' Testimony:

Russ Ritter, Former Marine Sergeant. and Former Mayor of Helena, read from written testimony.

EXHIBIT(sth25a01)

{Tape: 1; Side: A; Approx. Time Counter: 47.3 - 66}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor: The sponsor closed.

HEARING ON HB 305

Sponsor: REP. JIM PETERSON, HD 94, Lewistown

Opening Statement by Sponsor:

REP. PETERSON said this bill changes the statutory definition of current term regarding term limits.

A current term will begin when officially elected.

EXHIBIT(sth25a02)

{Tape: 1; Side: A; Approx. Time Counter: 4.2 - 11.3}

Proponents' Testimony:

Janice Doggett, Chief Legal Counsel, Secretary of State, said that relying on the AG's opinion, this simple bill clarifies

language and prevents an equal protection problem. She read Article 4, Section. 8 and distributed copies.

EXHIBIT (sth25a03)

{Tape: 1; Side: A; Approx. Time Counter: 11.3 - 14.3}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. LENHART asked Ms. Dogget if the session were not underway, if the interim counted toward a term limit. She replied it would not count. **REP. GIBSON** asked the sponsor if someone served a full two years because the vacancy happened in the beginning of a term, and then that time did not count toward the term limit, it was unfair. She wanted an amendment to say "less than 1/2 of a term." **The sponsor** said he had concluded a sliding scale definition would only complicate it. "This standard is cleaner," he said. To go beyond that creates a non-productive debate.

REP. WINDY BOY asked Ms. Doggett if their primary purpose is to serve in session. **Ms. Doggett** replied, the time starts when they are elected.

{Tape: 1; Side: A; Approx. Time Counter: 14.3 - 20.6}

Closing by Sponsor:

REP. PETERSON said that without this bill, the three months he served in 2002 would count as a full two years.

{Tape: 1; Side: A; Approx. Time Counter: 20.6 - 22.4}

HEARING ON HB 394

Sponsor: **REP. ROY BROWN, HD 14, Billings**

Opening Statement by Sponsor:

REP. BROWN said this sets two terms of eight years for a total of 16 years as a term limit for Supreme Court Justices. It is consistent with legislative term limits. Exceptions are write-in candidates. It will start for anyone being elected after January 1, 2005. This is a constitutional amendment question and must go to the voters.

{Tape: 1; Side: A; Approx. Time Counter: 22.4 - 24.5}

Proponents' Testimony: None

Opponents' Testimony:**Susan Witte, Attorney and Lobbyist for Montana State Bar**

Association, said although the Bar has argued for term limits in the past, now they are against. The need for an independent judiciary is fundamental to the separation of powers under Article 3, Section 1. She distributed copies of it.

EXHIBIT (sth25a04)

EXHIBIT (sth25a05)

Travis Ahner, Montana Trial Lawyers, said this is a matter of stability over time. Justices benefit by long experience. His group also believes term limits are bad for legislators.

{Tape: 1; Side: A; Approx. Time Counter: 24.5 - 29.2}

Informational Testimony: None

Questions from Committee Members and Responses:

REP. JENT asked Ms. Witte if it isn't true that once one becomes a justice, their only income is as a judge, they can't practice law on the side, and are in a different position than "hobby politicians". **Ms. Witte** agreed. **REP. LEHMAN** asked the sponsor if HB 305 which they had just heard, would affect this. **The sponsor** said it would not; it only affects those elected after 1/1/2005.

REP. HURWITZ asked if this bill could have an unintended result; i.e., "If you lock the judges into this, won't the whole thing get thrown out?" **Ms. Witte** replied that it is a constitutional question of separation of powers, and asked who would rule on that. "The courts," she answered to her own question. **REP. BROWN** asked her if that wasn't how the Initiative on term limits came about. **Ms. Witte** agreed and added that legislators are elected by people to create the law and the judiciary is elected to interpret the law.

REP. SMITH asked **REP. BROWN** about Karla Gray, appointed as Chief Justice; if that is a different position. He answered, "If the bill passes, after 1/1/105, she could still serve an additional 16 years." **REP. SMITH** asked if they go to a higher office, do they start all over again. The answer was yes.

REP. LEHMAN asked if there is a distinction between running for justice vs. Supreme Court Justice. The sponsor answered, "No difference." **REP. ROBERTS** asked if name recognition couldn't be important to a judge, who could use disingenuous arguments to establish a precedent. **Ms. Witte** replied that when a judiciary

hears a case, and researches, it addresses precedent; if it is to overrule, it relies on other precedents.

REP. WINDY BOY asked about line 27 of the bill. **REP. BROWN** said a justice or chief justice, gets a 16-year limit in the Court. If one was appointed after 1/1/05 to part of a term, that would count as one eight-year term. **REP. B. OLSON** asked if these two bills are not related. **Ms. Heffelfinger** replied that the bills would not conflict, because sponsor's bill would create a new Section 9 to Article 4 of the Constitution.

REP. DICKENSON asked the sponsor why have the exception for write-ins. He answered that laws allow anyone to be a write-in for legislative or executive if term-limited out, so this will be consistent. **CHAIRMAN BARRETT** asked Mr. Ahner if precedent is not always changing. **Mr. Ahner** replied a justice with a long history and knowledge of Montana law keeps them close to the "narrow line."

REP. JENT asked the sponsor, if a voter did not like a justice, could they just vote no next time. **REP. BROWN** agreed.

{Tape: 1; Side: A; Approx. Time Counter: 28.5 - 47.3}

Closing by Sponsor:

REP. BROWN said one branch should not have more independence than the other two. The Supreme Court has ruled term limits are okay for the other branches, so why not for themselves, he asked. Their judicial activism and politics from the bench have showed they're career politicians, he stated.

{Tape: 1; Side: A; Approx. Time Counter: 47.3 - 50}

EXECUTIVE ACTION ON HB 111

Motion: **REP. BROWN** moved to **AUTHORIZE REQUESTING A DRAFT COMMITTEE RESOLUTION TO REPLACE HB 111.**

Discussion:

REP. BROWN said that they cannot change language in the bill without this motion. It will answer questions to a number of bills and make it better for people of Montana.

Vote: On a voice vote, motion carried 19-0. Proxy votes were cast by **REPS. YOUNKIN and SCHRUMPF.**

Motion: REP. BROWN moved to **AUTHORIZE A COMMITTEE BILL TO STUDY RECRUITING/RETENTION BY MHP. A RESOLUTION WOULD BE PUT INTO AN INTERIM COMMITTEE TO STUDY THIS.**

Discussion:

REP. BECKER asked if this is a substitute motion; the answer was that it was another separate motion. REP. JENT said MHP retention is crucial; they get special training in accident investigation.

REP. A. OLSON supports, but reminded them they are setting up a circle; local police used to raise salaries because they were losing members to MHP. REP. HURWITZ asked if they are on the state pay scale. REP. A. OLSON said, "Yes." REP. BROWN said they have never compared apples to apples to find what the value of the nontaxable benefits are worth. She wants to see it in written form. REP. SMITH agreed with her resolution and said that MHP had a raise in wages and grade in 1999.

Ms. Heffelfinger was asked to explain the Interim committee study process. She explained that they first request an appropriate committee to study something. At end of the session, all study resolutions will be rank-ordered by legislators as to most important, and will be prioritized. Then they will be assigned to interim committees. It will be reported out as a committee bill for the 2005 Session, she said. REP. LEHMAN said it will take four years before they see results.

Vote: On a voice vote, motion **carried 19-0, REP. YOUNKIN voting by proxy.**

EXECUTIVE ACTION ON HR 2

Motion/Vote: REP. JACOBSON moved **HR 2 DO PASS.** On a voice vote, motion **carried 19-0, REP. YOUNKIN voting by proxy.**

EXECUTIVE ACTION ON HB 435

Motion: REP. BROWN moved **HB 435 DO PASS.**

Motion: REP. BROWN moved **AMENDMENTS (043501.ash) FOR HB 435.**
EXHIBIT (sth25a06)

Discussion:

REP. BROWN said this will include [fees for speaking to] local government. REP. WINDY BOY asked if the tribes are excluded.

REP. JENT replied that tribes are separate nations. This will not apply to them.

Vote: On a voice vote, **motion carried 19-0, REP. YOUNKIN voting by proxy.**

Discussion:

REP. BROWN wanted clarification if this would segregate legislators representing districts on reservations. The answer was no. **REP. A. OLSON** said if a legislator spoke to the tribes, they may accept a fee. If gifts over \$100 are accepted, they cannot be kept in the officials' personal possession.

Motion/Vote: **REP. BROWN** moved **HB 435 DO PASS AS AMENDED**. On a voice vote, **motion carried 19-0, REP. YOUNKIN voting by proxy.**

EXECUTIVE ACTION ON HB 348

Motion: **REP. BALLANTYNE** moved **HB 348 DO PASS**.

Discussion:

REP. A. OLSON said the money is best used for other programs. **REP. HURWITZ** asked for advice on **REP. WANZENRIED's** bill. **REP. LENHART** said the study may save money in future years. **REP. GIBSON** said the sponsor suggested cutting costs of the study by using volunteer executives. She supports the bill.

REP. JACOBSON said that the sponsor had said the fiscal note was not right. **REP. A. OLSON** said the Schwinden and Racicot studies cost money and did not help; agencies were empire-building and it led to bigger government.

REP. DICKENSON said she was impressed the Chamber of Commerce supported; two years ago they were not in favor of reorganization. She favors it. **REP. BROWN** said we do need less middle management, that's where the high-paying jobs are. Private business picks up the tab and she is against. They should have to go through Appropriations and have their budget whacked. **REP. BALLANTYNE** said some of the increase came from federal programs requiring more FTEs. There may have been greater growth if the study had not happened; he favors.

REP. A. OLSON said the Chamber came so their "ox will not be gored." All agencies must justify their existence except DPHHS, Corrections and Education. **REP. JACOBSON** disagreed. He said Ted

Schwinden was the last governor to cut substantially after that study. **REP. HURWITZ** said the last governor had a huge surplus. He asked if the Dave Lewis approach was right; i.e., just don't fund. **CHAIRMAN BARRETT** will vote no. She said Mr. Beck is right. The executive was cut \$2.5 million already; they must come and make their case to add it back it.

REP. WINDY BOY asked how it would affect local control. The life span of federal programs is three to four years. They have to finish the program or else pay back money. **REP. WAGMAN** said the government will never cut jobs except if funds are cut; it is protecting turf. **REP. BALLANTYNE** said it is not the job of government to employ but the employees pay taxes. It's a Catch-22; if there are layoffs, it will back into the entire system, and tax revenues are lost.

REP. BROWN replied that the sponsor wants to cut mid-level jobs; this bill would try to refine the process rather than by just not funding. **REP. BECKER** said looking at the sponsor's chart, there was a major reorganization in 1995-6. She is in favor of the action. **REP. DICKENSON** said it would involve branches working together for coordination. **CHAIRMAN BARRETT** agreed it was a good idea, but it depends on who the Governor appoints to the committee. **REP. A. OLSON** said they already had the Legislative Audit Committee.

Vote: On a voice vote, motion failed 9-10. Voting Aye were **REPS. JENT, BALLANTYNE, BECKER, DICKENSON, GIBSON, JACOBSON, LENHART, SMITH and WINDY BOY.** Proxy votes were cast by **REPS. YOUNKIN and WINDY BOY.**

Motion/Vote: **REP. A. OLSON** moved to **TABLE HB 348 AND REVERSE THE VOTE.** Vote was 10-9 to table. Voting No were **REPS. JENT, BALLANTYNE, BECKER, DICKENSON, GIBSON, JACOBSON, LENHART, SMITH and WINDY BOY.** Proxy votes were cast by **REPS. YOUNKIN and WINDY BOY.**

EXECUTIVE ACTION ON HB 371

Motion: **REP. A. OLSON** moved **HB 371 DO PASS.**

Discussion:

REP. A. OLSON said the majority party will stack the deck; he is against the bill. They need a strong bipartisanship on the interim committees. **REPS. LENHART and B. OLSON** agreed. **REP. JENT** said it's good to have the interim committees 50/50 because

then bills will pass; he disagreed with sponsor BALLYEAT. **REP. LEHMAN** is against the bill.

Substitute Motion: **REP. A. OLSON** made a **SUBSTITUTE MOTION TO TABLE HB 371.**

Discussion: **CHAIRMAN BARRETT** said this is a non-debatable motion.

Vote: On a voice vote, motion to table carried 17-2. Voting No were **REPS. WAGMAN** and **BROWN**. Proxies were received from **REP. YOUNKIN** and **WINDY BOY**.

ADJOURNMENT

Adjournment: 10:15 A.M.

REP. DEBBY BARRETT, Chairman

JOAN REIMAN, Secretary

DB/JR

EXHIBIT (sth25aad)